

DECLASSIFIED

E.O. 12958, as amended, Sect 3.5

NSC/Soubers to Smith 09/06/2008

By GA Date 02/13/07

NATIONAL SECURITY COUNCIL

WASHINGTON, D.C. 20506

~~SECRET~~

November 5, 1971

National Security Decision Memorandum 139

TO: The Secretary of State
The Secretary of Defense
The Secretary of Commerce

SUBJECT: Fishing Negotiations with Chile, Ecuador
and Peru

The President has considered the Ad Hoc Group Report submitted pursuant to NSDM 122 and the accompanying memorandum from the Department of State and the memorandum from the Departments of Defense and Commerce of October 4, 1971. He has decided that an effort should be made to reach an interim agreement with Chile, Ecuador and Peru on U.S. tuna fishing off their coasts pending the results of the U.N. Law of the Sea Conference.

Accordingly, the President has directed that we seek to enter into negotiations with Chile, Ecuador and Peru for an interim agreement, reserving our positions until a fixed time after the 1973 Law of the Sea Conference. Specifically:

- As a prelude to negotiations, we should seek to obtain assurances from Ecuador and Peru that they will refrain from seizing U.S. fishing boats pending or during negotiations. If assurances are obtained, we would lift the ban on Foreign Military Sales.
- In the negotiations, the U.S. should work for an arrangement under which U.S. fishermen would purchase coastal state licenses under protest, with assurances regarding license availability, fees, and no additional restrictions, with license fees to be paid into an escrow fund. The interim arrangement would terminate within a fixed time after the Law of the Sea Conference, regardless of the Conference outcome, and the disposition of the escrow fund would be negotiated in light of the results of the Conference.

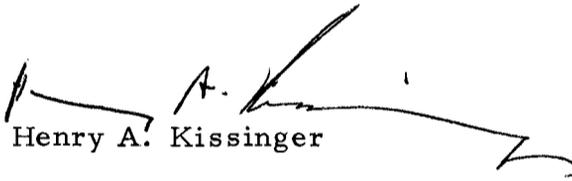
~~SECRET~~

- Efforts will be made during these negotiations to obtain a public statement or private assurances by Chile, Ecuador and Peru that they recognize and accept the importance of free navigation and overflight beyond 12 miles and free transit through and over straits, and their support for this position in the 1973 Law of the Sea Conference.
- To initiate such discussions, the Department of State is authorized to take any appropriate measures, including an approach to the Ecuadorian President.

The President also has directed that the Department of State, in conjunction with the Departments of Defense and Commerce, consult with appropriate members of Congress and representatives of the fishing industry concerning our negotiating objectives in respect to fisheries and the assurances we will seek as a basis for a resumption of Foreign Military Sales.

If negotiations succeed, the Executive Branch will propose legislation to provide reimbursement for license fees.

Should the talks fail to be held, or the initial round of talks not succeed but appear promising, the President will consider further action or instructions.


Henry A. Kissinger

cc: The Secretary of Interior
The Secretary of Transportation
The Director of Central Intelligence
The Chairman, Joint Chiefs of Staff
The Assistant to the President for
International Economic Affairs